

# Frequently Asked Questions

*Utah Labor Commission  
Wage Claim Unit*

*U.S. Department of Labor  
Wage and Hour Division*



## **1. What is the current minimum wage?**

***Utah Labor Commission Answer:*** As of July 24, 2007, the minimum wage is \$5.85 per hour. Minor employees (under 18 years of age) may be paid \$4.25 per hour for the first 90 days of employment with an employer. Employees receiving tips of at least \$30.00 per month may be paid a cash wage of \$2.13 per hour, if the total of the cash wage and the tips total at least \$5.85 per hour.

***U.S. Department of Labor Answer:*** Under the Fair Labor Standards Act (FLSA) the current minimum wage is \$5.85 per hour. Beginning July 24, 2008, the minimum wage increases to \$6.55 per hour and beginning July 24, 2009, increases to \$7.25 per hour. Employees under 20 years of age may be paid \$4.25 per hour for the first 90 consecutive days of employment with an employer. The Federal law is the same as the Utah law with regard to tipped employees. Federal law allows certain employees to be paid less the minimum wage if the employer has a valid certificate issued by the Department. Certificates can be issued for the employment of full time students in retail establishments, student learners and workers with disabilities.

## **2. How soon must an employer pay wages to an employee after terminating the employment of an employee? How soon if an employee resigns?**

***Utah Labor Commission Answer:*** If the employee is separated by the employer, all wages are due immediately and payable within 24 hours of separation. If the employee does not have a written contract for a definite period and resigns, the wages become due and payable on the next regular payday. These provisions may not apply to the earnings of a sales agent earning commissions.

***U.S. Department of Labor Answer:*** Last paychecks are due on the employee's regular pay day under the FLSA. It does not matter if the employee was terminated or resigned.

## **3. Is an employer required to provide paid vacation, holiday pay, sick leave or severance pay?**

***Utah Labor Commission Answer:*** In general, Utah labor law does not require an employer to provide benefits to its employees. If an employer does establish a policy or practice of providing benefits they are expected to abide by the policy or practice.

***U.S. Department of Labor Answer:*** The Fair Labor Standards Act does not require employers to provide vacation, holiday, sick or severance pay. Fringe benefit payments may be required for employees if they are employed on a Federal construction or service contract.

#### **4. What are the laws governing overtime?**

**Utah Labor Commission Answer:** Overtime is a provision of the Fair Labor Standards Act. Information on this Federal Law may be obtained from the U. S. Dept. of Labor, Wage and Hour Division, 150 East Social Hall Avenue, Suite 695, Salt Lake City, Utah 84111. Telephone (801) 524- 5706. Home page <http://www.wagehour.dol.gov>.

**U.S Department of Labor Answer:** Covered, nonexempt employees must receive time and one-half their regular rate of pay for all time worked in excess of 40 hours in a workweek under the FLSA. Averaging of hours over two or more weeks is not permitted. Compensatory time off instead of cash overtime is not permitted except for employees of a public agency and then only pursuant to an agreement that provides for time and one-half off for each overtime hour worked. The regular rate of pay includes all straight time earnings including hourly, salary, shift differential, commission pay, certain bonuses, etc.

#### **5. Is an employer allowed to make a deduction from an employee's wages for till shortages, cash advances, items purchased from the employer and etc.?**

**Utah Labor Commission Answer:** The Utah Labor Rules addresses these issues and provides the criteria under which certain deductions may be made from an employee's wages. In most cases an employee's signature is required.

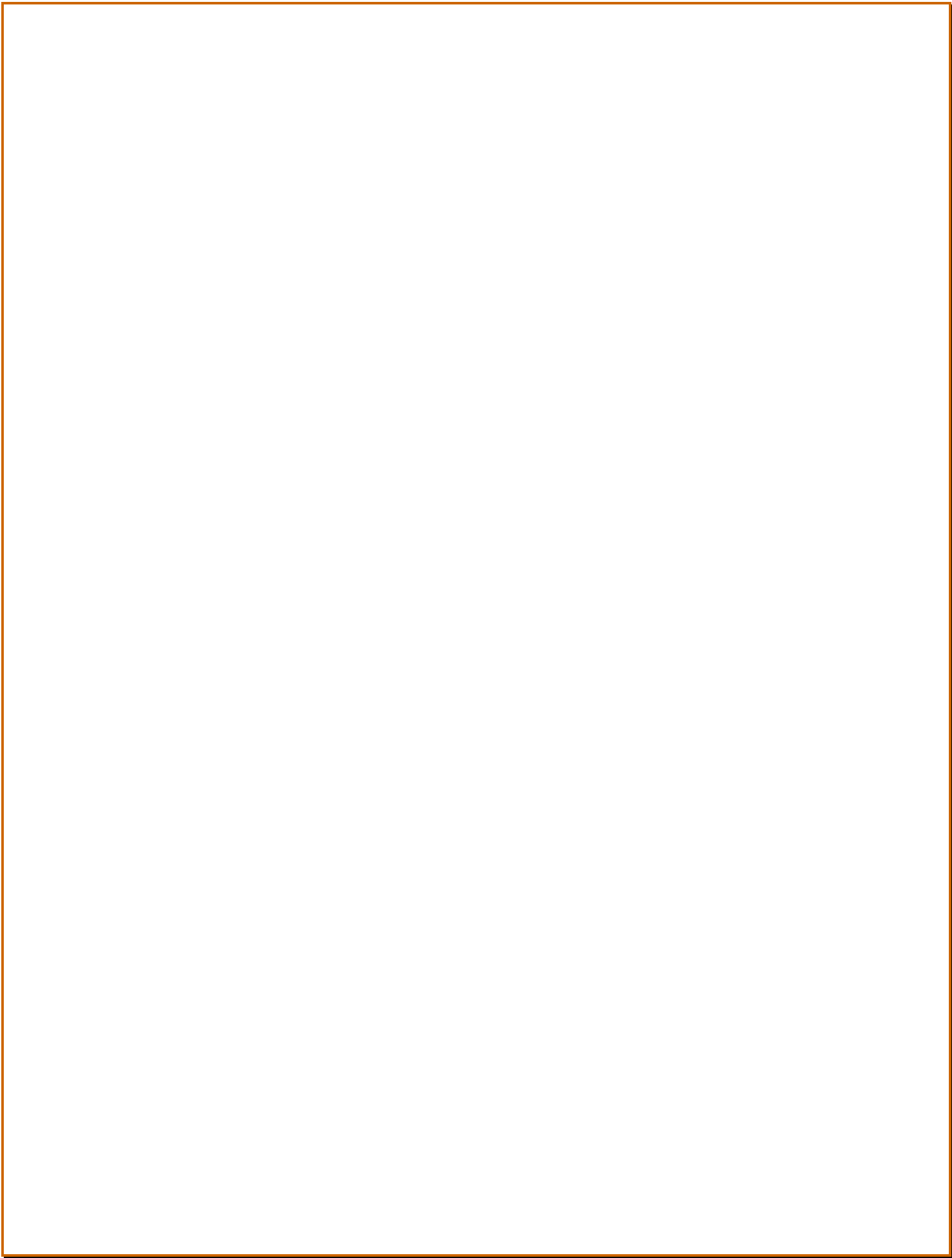
**U.S Department of Labor Answer:** Deductions made from wages for such items as till shortages, employer-required uniforms or uniform deposits, and tools of the trade, are allowed, only if they do not reduce the wages of the employee below the minimum wage or reduce the amount of overtime pay due under the FLSA.

#### **6. What can an employee do if an employer does not pay wages to the employee?**

**Utah Labor Commission Answer:** The employee may file a wage claim against the private employer with the Labor Commission if the amount of the alleged unpaid wages is at least \$50.00 and no more than \$10,000.00, and the alleged unpaid wages were earned within one year of the date of the wage claim filing. Other options available to the employee include an action in small claims court or contacting an attorney.

**U.S Department of Labor Answer:** The FLSA does not provide wage payment or collection procedures for an employee's usual or promised wages or commissions in excess of those required by the FLSA. However, unpaid statutory minimum and/or overtime wages may be recovered in the following ways:

- Wage-Hour may supervise payment of back wages.
- The Secretary of Labor may bring suit for back wages and an equal amount as liquidated damages.
- An employee may file a private suit for back pay and an equal amount as liquidated damages, plus attorney's fees and court costs.
- The Secretary of Labor may obtain an injunction to restrain any person from violating the FLSA, including the unlawful withholding of proper minimum wage and overtime pay.



## **7. Who is responsible to pay the cost of uniforms required by an employer?**

**Utah Labor Commission Answer:** If an employer requires a specific uniform to be worn as a condition of employment, the employer must furnish the uniform free of charge, but can require a refundable deposit on each uniform of \$20.00 or the cost of the uniform, whichever is less.

**U.S Department of Labor Answer:** See answer to number 5 above.

## **8. Are employers required to provide rest breaks and meal periods?**

**Utah Labor Commission Answer:** Minors are entitled to a meal period of at least 30 minutes not later than five consecutive hours from the start of their work shift. A rest break is required for minors of at least 10 minutes for every four hour period or part thereof that they work, and they shall receive their first rest break not later than the third consecutive hour from the start of work shift.

The rest break is paid work time, while the meal period is unpaid time provided during the 30 minutes or more the minor employee is completely relieved of all job responsibilities and free to leave his or her work station or area. There are no state or federal laws that require an employer to provide meal periods or rest breaks for adult employees (age 18 and older). Most employers in the interest of efficiency and good employee relations will establish a rest and/or meal period policy for their adult employees.

**U.S Department of Labor Answer:** The FLSA does not require meal or rest breaks, holidays off or holiday work. Rest breaks of short duration, usually 20 minutes or less, are considered hours worked and should be compensated. Meal periods, typically 30 minutes or more, generally need not be compensated provided the employee is completely relieved from duty for the purpose of eating.

## **9. At what age are minors allowed to do certain jobs?**

**Utah Labor Commission Answer:** Minor employees can work in retail trade and the restaurant industry and do office work, and other types of non-hazardous work beginning at age 14. Certain other types of work such as newspaper delivery, lawn care, babysitting, etc. can be performed at younger ages. There are work hour restrictions that apply to minors under age of 16. Child Labor Laws prohibit minors under age 18, from working in 17 different occupations determined to be hazardous.

**U.S Department of Labor Answer:** Under the Federal FLSA the minimum age for non-agricultural employment in specified occupations outside school hours for limited periods of time each day and each week is 14. Minors under 14 may deliver newspapers, baby-sit, work as an actor or performer in motion pictures, television, theater or radio, and may work in non-hazardous occupations in a business solely owned or operated by their parents. Youth ages 14 and 15 may be employed to work in certain occupations in retail, food service and gasoline service stations. These occupations include office and clerical work, cashiering, selling, assembling orders, packing, shelving, price marking, bagging and carrying out customer orders, errand and delivery work by foot, bicycle and public transportation, clean-up work, maintenance of grounds but not including use of power-driven mowers or cutters, certain kitchen work, dispensing gas, and car cleaning. At 16

years of age, minors may be employed for unlimited hours in any occupation other than the 17 occupations declared hazardous.

There are many areas of agreement between State and Federal child labor law. There are some Federal standards that are stricter than Utah law and if the Federal law applies the employer must comply with the stricter requirement. For example, under Federal law 14 and 15 year old minors may not work more than 3 hours on a school day and may not work past 7:00 p.m. from Labor Day to June 1 and past 9:00 p.m. from June 1 to Labor Day. Under Utah state law minors under the age of 16 may work 4 hours on a school day, until 9:30 p.m. year around and after 9:30 p.m. if the next day is not a school day. In this example, employers must comply with the Federal standards.

#### **10. I was fired unfairly. What can I do about it?**

***Utah Labor Commission Answer:*** Consult an attorney about a wrongful discharge private action. The issue of discharge is not addressed in the Labor Code, except that upon termination unpaid wages are due immediately and are to be paid within 24 hours. The area of employment discrimination does address illegal and discriminatory discharge; therefore if you think you have been illegally discriminated, you may want to consult the Anti-Discrimination Division of the Labor Commission.

***U.S Department of Labor Answer:*** The Wage and Hour Division does not enforce labor standards dealing with discrimination. Discrimination allegations based on age, sex, race, color, religion, disability, and/or national origin are enforced by the Anti-Discrimination Division of the Industrial Commission. The U.S. Department of Labor, Office of Federal Contract Compliance Programs investigates discrimination allegations for workers employed on certain Federal contracts.

#### **11. Do I have to follow the State or the Federal guidelines?**

Employers must comply with both laws if both laws apply. An employer should examine the guidelines under both State and Federal law and comply with the standard which is the strictest. For example, please see the last paragraph of the answer to question #9 above.

#### **FOR MORE INFORMATION:**

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